



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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Executive Director

May 20, 2008

TO: INTERESTED PARTIES

Enclosed is a copy of Current Legal Digest (CLD) number 2008-2 for your information and review. The annotations included in this CLD are new proposed annotations (underlined) and/or suggested revisions or deletion of existing annotations (indicated by ~~strikeout~~ and underline). After review, please submit any questions, comments, or suggestions for changes *in writing* by **Friday, June 20, 2008**. These may be sent by e-mail using the "Comments Form" on the Board's website (www.boe.ca.gov/proptaxes/cld.htm), fax or mail. Here is the mailing address:

Board of Equalization
County-Assessed Properties Division
ATTN: Annotation Coordinator
P. O Box 942879
Sacramento, CA 94279-0064

Please note, the new annotations and/or suggested revisions of existing annotations contained in the enclosed CLD are *drafts* and may not accurately reflect the Board's official position on certain issues nor reflect the language that will be used in the final annotation, if formally adopted.

CLDs are circulated for 30 days, at which time any questions are addressed and/or suggested modifications taken into consideration. After approval of the final version by the Board's Legal Department, the changes will be posted to the Board's website under "Annotations" (www.boe.ca.gov/proptaxes/annocont.htm). After all proposed changes have been resolved, the CLD will become obsolete and deleted from the website.

This CLD is posted on the Board's website at www.boe.ca.gov/proptaxes/cld.htm. Copies of the backup correspondence are linked to each annotation via the annotation number. If a link does not work, please let us know by using the "Comments Form" on our website (www.boe.ca.gov/proptaxes/cld.htm). If you have any questions, please contact Glenna Schultz at 916-324-5836.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG/grs
Enclosure

PROPERTY AND SPECIAL TAXES DEPARTMENT

PROPERTY TAXES CURRENT LEGAL DIGEST NO. 2008-2

May 20, 2008

200.0300 BASE YEAR VALUE TRANSFER—GOVERNMENT ACQUISITION

[200.0371 Threat of Condemnation.](#) Revenue and Taxation Code section 68 and Property Tax Rule 462.500 require that a person be displaced from property by eminent domain proceedings, by acquisition by a public entity, or by governmental action which results in a judgment of inverse condemnation. Acquisition by a public entity in lieu of instituting eminent domain proceedings can include acquisition by an agent of a public entity. Evidence must be provided that proves the agent is acting on behalf of the public entity. C 1/30/2008.

220.0000 CHANGE IN OWNERSHIP

[220.0084 Corporate Property Transfers.](#) If a corporation transfers real property to a wholly owned subsidiary corporation or partnership, no change in ownership occurs. However, if the transferor owns less than 100% of the transferee entity, the property should be reappraised in total. C 3/18/87.

Delete – This annotation and letter no longer represent our position since the court decisions in Sav-on Drugs, Inc. v. Orange County, 190 Cal.App.3d 1611, and Pueblos Del Rio South v. City of San Diego, 209 Cal.App.3d 893. A transfer of real property from a parent corporation into a newly formed subsidiary is excluded from change in ownership under section 62(a)(2), not section 64(b).

[220.0311 Joint Tenancy.](#) Under Civil Code section 683.2(a)(1), a joint tenancy may be severed by execution and delivery of a deed that conveys legal title to the joint tenant's interest to a third person. The transfer of a joint tenancy interest into trust does not sever the pre-existing joint tenancy unless the trust is for the benefit of a third person who is not one of the existing joint tenants, because this would be contrary to the joint tenants' survivorship rights. C 12/26/2007.

[220.0332.005 Leases.](#) In applying Revenue and Taxation Code sections 61(c) and 62(g) to leases of 35 or more years that commenced prior to March 1, 1975, the assessor should consider the entire term of each lease, including the portion of the term that was in effect prior to the enactment of Proposition 13. Section 61(c) and Property Tax Rule 462.100 do not expressly exclude periods prior to March 1, 1975, from the calculation of lease terms. C 1/7/2008.

610.0000 NEWLY CONSTRUCTED PROPERTY

[610.0004.005 Automatic Builder's Exclusion.](#) Revenue and Taxation Code section 75.12(a)(1)(A) provides an exclusion from reassessment for new construction that the owner does not intend to use or occupy if the owner provides the assessor with timely notice of this intent. Section 75.12(a)(1)(B) provides that the new construction for resale exclusion is automatic and no notice is required if all of the following conditions are met: (1) the property

is subdivided into five or more parcels, (2) a map describing the parcels has been recorded, and (3) single-family residences will be constructed on the parcels.

The test for the automatic exclusion must be applied to each subsequent owner. If any owner fails to qualify for the automatic exclusion, he/she must provide timely notice to the assessor. A subsequent owner must acquire at least five lots in the same subdivision in order for the automatic new construction exclusion to apply. Parcels with existing residences do not count towards the five parcel minimum. C 1/23/2008.

625.0000 PARENT-CHILD TRANSFER

625.0143 One Million Dollar Exclusion. For purposes of the parent-child exclusion, the full cash value that is applied toward the \$1 million exclusion is the taxable value on the roll immediately prior to the date of transfer to an eligible transferee (i.e., the factored base year value). C 10/1/2004.

Delete – Pursuant to Revenue and Taxation Code section 110.1(f), inflationary factoring is applied as of the lien date. Thus, for a transfer that occurs in the window period, the value to be counted toward the \$1 million exclusion is the value for the roll being prepared.

880.0000(a) WELFARE EXEMPTION – IN GENERAL

880.0285 Tax Exempt Status. In order for an organization to establish that it is exempt from income tax as required by Revenue and Taxation Code section 214.8(a), the organization must file with the Board of Equalization either a copy of a valid, unrevoked Franchise Tax Board letter or ruling stating that the organization is tax exempt under section 23701d of the Revenue and Taxation Code or a copy of a valid, unrevoked Internal Revenue Service letter or ruling stating that the organization is tax exempt under section 501(c)(3) of the Internal Revenue Code. C 1/16/2008.